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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

PRECISION CUSTOM COATINGS, LLC,

Plaintiff,

vs.

JAB DISTRIBUTORS, LLC,

Defendant.

CASE NO. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
JUDGMENT OF NON-INFRINGEMENT**

**Jury Trial Demanded**

Plaintiff Precision Custom Coatings, LLC (“PCC”) files this Complaint for Declaratory Judgment of non-infringement pursuant to the U.S. Patent Act, 35 U.S.C. § 1 *et seq.*, and alleges as follows:

1. PCC is a New Jersey limited liability company with its principal place of business at 200 Maltese Drive, Totowa, New Jersey.
2. Upon information and belief, Defendant JAB Distributors, LLC (“Defendant”), is an Illinois limited liability company with its principal place of business at 1500 South Wolf Road, Wheeling, Illinois.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction in this case because this action arises under the Patent Act, 35 U.S.C. § 1 *et seq.* This Court also has jurisdiction over this case pursuant to 28 U.S.C. § 1332(a)(1), as the matter in controversy exceeds \$75,000, and is between citizens of different states.

4. This Court has personal jurisdiction over Defendant because Defendant, upon information and belief, conducts business in the State of New Jersey and within this district, including selling and offering for sale products in New Jersey. This Court also has personal jurisdiction over Defendant because Defendant has accused PCC of patent infringement.

5. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this action occurred in this district.

6. As set out more fully below, the Court may declare the rights and other legal remedies of the parties and grant further relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Fed. R. Civ. P. 57 because an actual controversy exists within the Court's jurisdiction.

### **FACTS**

7. PCC is a manufacturer and supplier of value-added fabrics for the apparel industry and industrial markets.

8. Among the products sold by PCC are mattress encasements and protectors under the trademark SlumberShield®, which are designed to provide mattress protection from bed bugs, dust mites, liquid spills, mold and bacteria.

9. On February 7, 2014, PCC received a cease and desist letter from Defendant, a true and correct copy of which is attached hereto as Exhibit A. The cease and desist letter alleges infringement of U.S. Patent No. 8,528,134 (the “ ‘134 Patent”) allegedly owned by Defendant.

10. The cease and desist letter from Defendant stated: “It has come to our attention that Precision Custom coatings, LLC (‘PCC’) manufactures, offers for sale, and/or sells in the United States a bed bug protective encasement for a mattress under the name ‘SLUMBERSHIELD’ that incorporates one or more of the inventions claimed and protected by the ‘134 patent and thus infringes the 134 patent.”

11. The cease and desist letter from Defendant demands that PCC cease and desist from manufacturing, offering for sale and selling the SlumberShield® product or, in the alternative, pay Defendant royalties under a license.

12. Defendant states in the cease and desist letter that it would like to “resolve this matter as soon as possible and without having to burden you or the courts with formal legal action”, but stated that if PCC would not agree to the aforementioned conditions, Defendant “will proceed accordingly.”

13. PCC’s SlumberShield® product incorporates features that protect mattresses that are completely different in structure and function from the alleged invention claimed by the ‘134 Patent.

14. PCC’s SlumberShield® product does not meet each and every element of any of the claims of the ‘134 Patent.

### **COUNT ONE**

#### **(Declaratory Judgment of Non-Infringement)**

15. PCC repeats and realleges the allegations in paragraphs 1 through 14 of this Complaint as if fully set forth herein.

16. Defendant has claimed that the manufacture, sale, and/or offer to sell the SlumberShield® product constitutes infringement of the '134 Patent, and has threatened to sue PCC on those grounds.

17. An actual, present, and justiciable controversy has arisen between the parties concerning PCC's right to manufacture, use, distribute and sell the SlumberShield® product in the United States, and is of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

18. PCC seeks declaratory judgment from this Court that the SlumberShield® product does not infringe the '134 Patent.

Plaintiff requests a jury trial on the claims asserted herein.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests a judgment against Defendants as follows:

A. Declaring that the manufacture, use, sale, offer to sell and/or importation of the SlumberShield® product does not infringe the '134 Patent.

B. Awarding Plaintiff such other and further relief that is just and proper.

DATED: February 20, 2014

GREENBERG TRAURIG, LLP

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**DEMAND FOR JURY TRIAL**

Plaintiff Precision Custom Coatings, LLC hereby demands a trial by jury on all issues for which a trial by jury may be had.

DATED: February 20, 2014

GREENBERG TRAURIG, LLP

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# EXHIBIT A



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February 7, 2014

**VIA FEDERAL EXPRESS**

Mr. Peter Longo  
C.O.O.  
Precision Custom Coatings, LLC  
200 Maltese Drive  
Totowa, New Jersey 07512

Re: Infringement of U.S. Patent No. 8,528,134  
Owned By JAB Distributors, LLC

Dear Mr. Longo,

Our firm represents JAB Distributors, LLC ("JAB") with respect to intellectual property matters. JAB is the owner of United States Patent No. 8,528,134 ("the 134 patent"), a copy of which is enclosed. The 134 patent generally relates to a method of preventing bed bugs from escaping a mattress encasement via a zipper opening in the encasement.

It has come to our attention that Precision Custom Coatings, LLC ("PCC") manufactures, offers for sale, and/or sells in the United States a bed bug protective encasement for a mattress under the name "SLUMBERSHIELD" that incorporates one or more of the inventions claimed and protected by the 134 patent and thus infringes the 134 patent.

JAB is deeply committed to protecting its investment in and rights to its intellectual property. Accordingly, JAB requests your written assurance that PCC (and all of its



Mr. Peter Longo  
February 7, 2014  
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affiliate companies and subsidiaries) will immediately cease and desist from any further manufacture, offer for sale, and sale of JAB's patented bed bug protective mattress encasement (including, but not limited to, further manufacture, offer for sale, and sale of the SLUMBERSHIELD product). In the alternative, JAB would be willing to agree to a license whereby PCC pays JAB \$2.00 for every infringing encasement PCC sells and has sold since the 134 patent issued on September 10, 2013.

Because JAB would like to resolve this matter as soon as possible and without having to burden you or the courts with formal legal action, we request that you respond with your assurances of cooperation in this matter by the end of the business day February 21, 2014. If we do not receive such assurances by that day, we will assume that you are not willing to cooperate with JAB in this matter and will proceed accordingly.

We look forward to your prompt response.

Very truly yours,

David Z. Petty

Enclosure

Copy w/o encl to: James Bell  
Chief Executive Officer  
JAB Distributors, LLC



US008528134B2

(12) **United States Patent**  
**Bell et al.**(10) **Patent No.:** **US 8,528,134 B2**  
(45) **Date of Patent:** **Sep. 10, 2013**(54) **METHOD OF PREVENTING BED BUGS FROM ESCAPING A MATTRESS ENCASEMENT VIA A ZIPPER OPENING**(75) Inventors: **James A. Bell**, Glencoe, IL (US);  
**Yueh-Jyh Chen**, Shanghai (CN);  
**Ching-Yao Yeh**, Shanghai (CN)(73) Assignee: **JAB Distributors, LLC**, Wheeling, IL (US)

( \* ) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **13/252,337**(22) Filed: **Oct. 4, 2011**(65) **Prior Publication Data**  
US 2012/0023712 A1 Feb. 2, 2012**Related U.S. Application Data**

(63) Continuation of application No. 12/703,900, filed on Feb. 11, 2010, now abandoned, which is a continuation of application No. 12/498,863, filed on Jul. 7, 2009, now abandoned, which is a continuation of application No. 12/255,913, filed on Oct. 22, 2008, now abandoned, which is a continuation of application No. 11/756,249, filed on May 31, 2007, now Pat. No. 7,552,489.

(60) Provisional application No. 60/895,011, filed on Mar. 15, 2007.

(51) **Int. Cl.**  
**A47G 9/00** (2006.01)  
**A47C 31/00** (2006.01)  
**A44B 19/26** (2006.01)(52) **U.S. Cl.**  
USPC ..... 5/499; 5/738; 5/699; 5/939; 24/389(58) **Field of Classification Search**USPC ..... 5/699, 738, 939, 496, 737, 490, 482,  
5/484, 501, 499; 24/389

See application file for complete search history.

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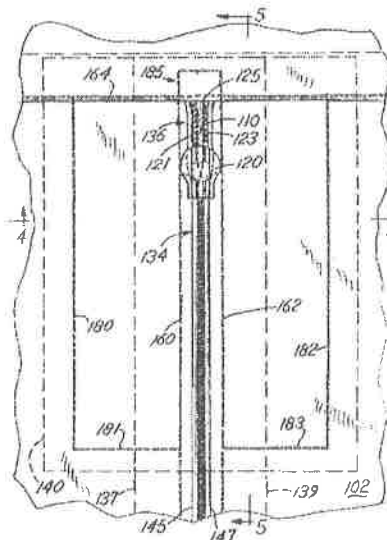
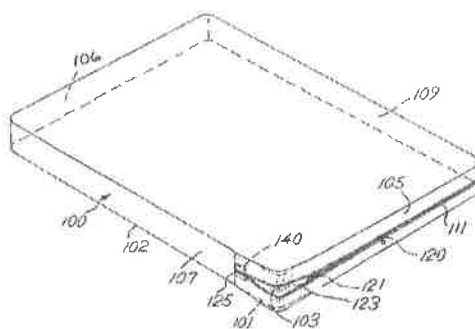
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*Primary Examiner* — Robert G Santos(74) *Attorney, Agent, or Firm* — McAndrews, Held & Malloy, Ltd.(57) **ABSTRACT**

A mattress encasement made of bug impervious fabric provides a zipper opening for removal of the mattress. A foam pad is stitched at an end of the zipper closure such that when the zipper is located at or near the end, a channel is provided to prevent or obstruct the escapement of bed bugs via the channel and out from a mattress encased by the mattress encasement.

**8 Claims, 3 Drawing Sheets**

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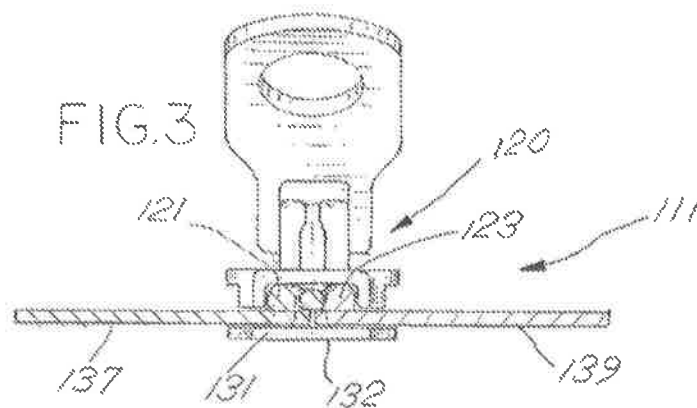
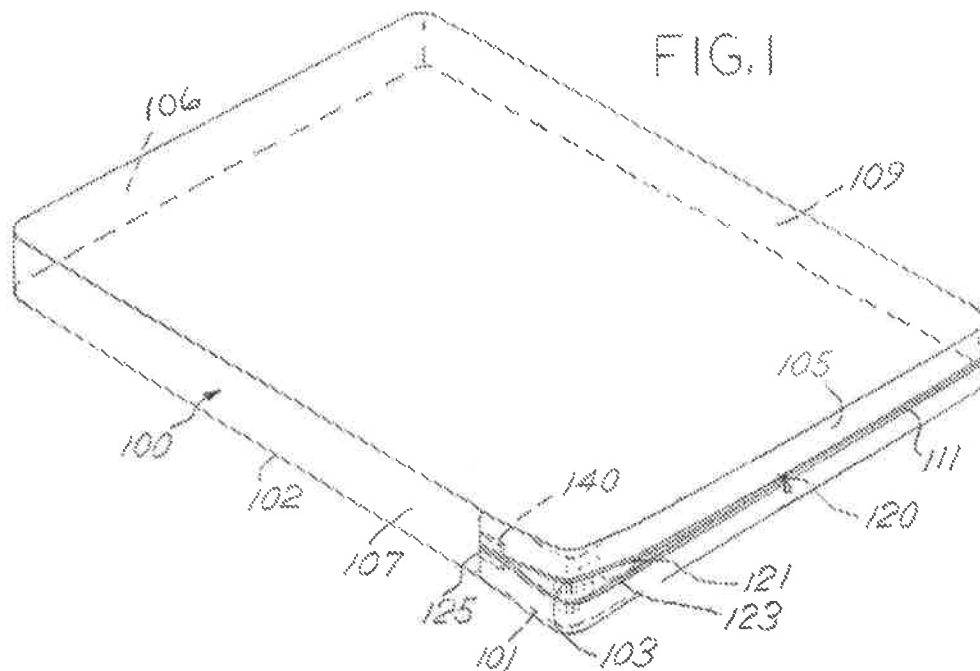
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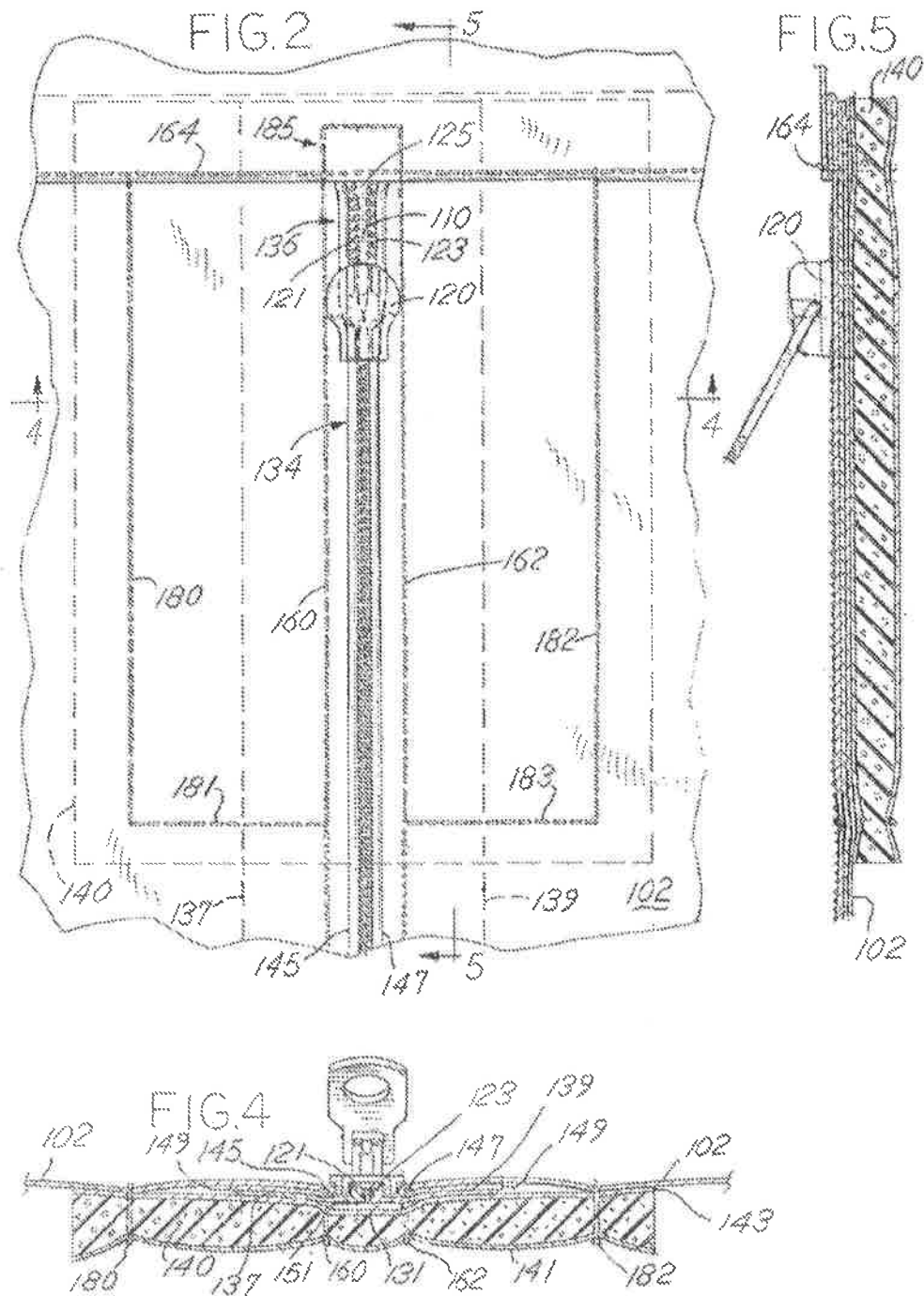


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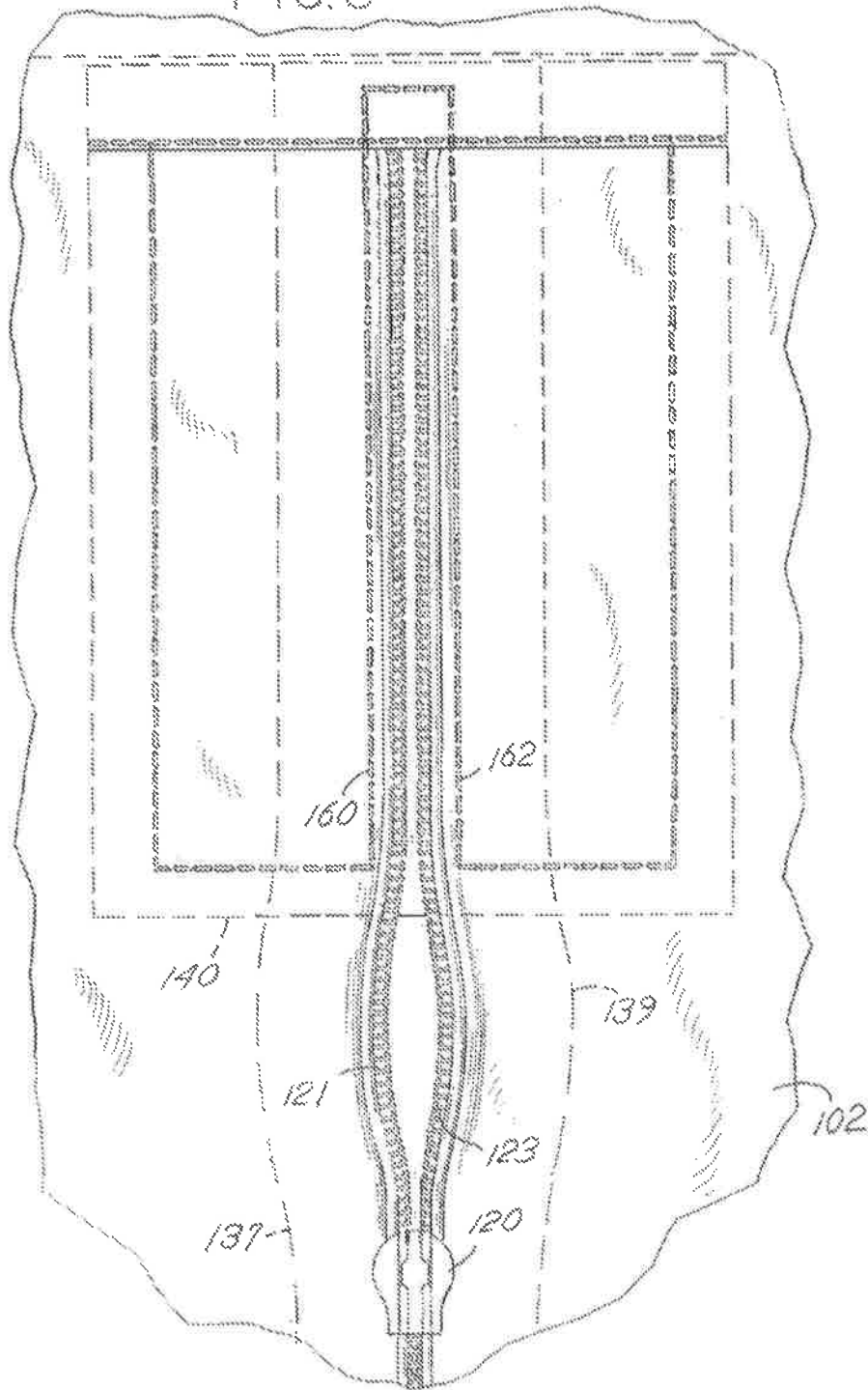
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FIG. 6





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# METHOD OF PREVENTING BED BUGS FROM ESCAPING A MATTRESS ENCASEMENT VIA A ZIPPER OPENING

## CROSS-REFERENCE TO RELATED APPLICATIONS

This application makes reference to, and claims priority to, U.S. non-provisional application Ser. No. 12/703,900 "Mattress Encasement For Preventing Bed Bug Escapement Via A Zipper Opening," filed Feb. 11, 2010, which, in turn, claims priority to U.S. patent application Ser. No. 12/498,863 filed Jul. 7, 2009 titled "Mattress Encasement For Preventing Bed Bug Escapement Via A Zipper Opening," which, in turn, claims priority to U.S. patent application Ser. No. 12/255,913 filed Oct. 22, 2008 titled "Mattress Encasement For Preventing Bed Bug Escapement Via A Zipper Opening," which, in turn, claims priority to U.S. patent application Ser. No. 11/756,249 filed May 31, 2007 titled "Mattress Encasement For Preventing Bed Bug Escapement Via A Zipper Opening," which issued on Jun. 30, 2009 as U.S. Pat. No. 7,552,489. U.S. application Ser. No. 11/756,249, in turn, claims priority to U.S. Provisional Application No. 60/895,011, filed Mar. 15, 2007 and titled "Mattress Encasement For Preventing Bed Bug Escapement Via A Zipper Opening". Each of U.S. application Ser. Nos. 12/703,900, 12/498,863, 12/255,913, 11/756,249 and 60/895,011 are hereby incorporated by reference in their entireties.

## FIELD OF THE INVENTION

The invention relates to an apparatus and method for preventing bed bugs from escaping out of a bed mattress. More particularly, the invention relates to a zipper closure structure on a mattress encasement which, while allowing removal of the mattress from the encasement, prevents the escapement of bed bugs out of the mattress and past the encasement.

## BACKGROUND OF THE INVENTION

Bed bugs are a type of insect that commonly hides within bed mattresses. Such bed bugs are found in motels, hostels or boarding houses where itinerant travelers find overnight lodging. Bed bugs will feed off of the blood of humans sleeping on the mattresses that harbor these insects. Typically, a bed bug will crawl out of the mattress during the night, bite the sleeping victim, and then return to the safe confines of the mattress.

To prevent the escapement of bed bugs from the mattress, and thus contain and starve the bugs, a technique has been devised in which the mattress is surrounded with a fabric cover or encasement to seal the exit of the bugs. The encasement is slipped onto the mattress and closed via a slide fastening mechanism such as a zipper. Bugs escaping from the mattress will encounter the barrier of the fabric cover, and thus will be prevented from reaching a human sleeping on the mattress.

Problems exist, however, with the use of such protective mattress covers or encasements. For example, a user may fail to completely close the zipper on the encasement, or the zipper may become partially unzipped through movement or rustling of the mattress, as for example, when the bed is made and remade. This results in an opening at the zipper end through which bed bugs may escape. Indeed, even zippers that have been carefully and completely closed may still leave a narrow opening at the end of the zipper that is a large enough opening for a small bed bug to crawl through and escape.

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Accordingly, there exists a need to prevent the escapement of bed bugs from a zipper opening in a mattress protective encasement.

## SUMMARY OF THE INVENTION

It is therefore an object of the present invention to provide a mattress encasement structure which prevents bed bug escapement from the zipper opening of the encasement.

It is yet another object of the present invention to provide a method of preventing bed bugs from exiting a mattress encasement at the zipper end of the encasement.

These and other objects of the invention are achieved in a mattress encasement having a zipper opening for receiving a mattress. A barrier structure is disposed at the zipper end of the encasement in order to thwart bed bug travel to any small opening which may form at the zipper end.

In addition, objects of the invention are achieved in a method for guiding bed bugs housed within a mattress relative to a zipper portion of a mattress encasement. The bugs are channeled away from the zipper end of the encasement using a barrier structure.

## BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a perspective view of an embodiment of a mattress encasement covering a mattress.

FIG. 2 is an enlarged top view of a zipper end location of the mattress encasement of FIG. 1.

FIG. 3 is an enlarged end view of a zipper of the encasement of FIG. 1.

FIG. 4 is an enlarged cross sectional end view of the zipper end location of FIG. 2, taken along line 4/4 in FIG. 2.

FIG. 5 is a cross sectional side view of the zipper end location of FIG. 2, taken along line 5/5 in FIG. 2.

FIG. 6 is an enlarged top view of the zipper end location of the mattress encasement of FIG. 1 in which the zipper is opened providing an opening to the mattress.

## DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Referring to FIG. 1, a mattress encasement 100 surrounds a conventional mattress 101. Mattress encasement 100 may be constructed from a fabric 102 of a size and shape so as to surround and engulf the entirety of mattress 101. Fabric 102 of the encasement is woven so as to be impervious to bed bugs.

An opening 103 is formed at one end 105 of the encasement. Opening 103 extends along the entire width of end 105, and extends a short distance along each of sides 107, 109 of the encasement. Opening 103 allows mattress 101 to slide into and out of encasement 100 so that the encasement may be laundered from time to time.

Opening 103 may be closed by a zipper closure 111 to seal the entire encasement opening 103. Zipper closure 111 includes a zipper head 120 and a pair of zipper tracks 121, 123. Tracks 121, 123 are disposed around opening 103 in a confronting relationship and are zipped together in a conventional fashion. Tracks 121, 123 have meshable teeth which interleave together as caused by zipper head 120 guiding the two tracks 121, 123 together.

Referring to FIG. 2, zipper head 120 is shown connected to zipper tracks 121, 123 and disposed in a position near an end location 125. End location 125 is where zipper head 120 is stopped from further movement along tracks 121, 123. The tracks are shown intermeshed behind zipper head 120, as

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indicated at 134, to close opening 103 (FIG. 1), and form a seal by the closed tracks that is impervious to bed bugs. Also as indicated at 136, zipper tracks 121, 123 located in front of zipper head 120 are not intermeshed, and define an unzipped portion of the mattress encasement. A small zipper opening 110 is thus formed in front of zipper head 120 in the proximity of end location 125. Opening 110 extends between end location 125 and zipper head 120.

As shown in FIG. 2, a rectangular shaped foam pad 140 is disposed beneath fabric 102, and thus, beneath the zipper closure at the proximity of end location 125. As shown in FIGS. 4 and 5, foam pad 140 is of a much greater thickness than fabric 102.

Foam pad 140 may be made from a flexible resilient foam material, but other materials may be used as well. For example, foam pad 140 may be a fabric material, a rubber material, or any other material which may be stitched to fabric 102. In addition, foam pad 140 may be compressible such that contact made by mattress 101 against the lower surface 141 of pad 140 causes the pad to compress between the mattress and the encasement fabric 102, forcing the top surface 143 of pad 140 into contact with fabric 102 as well as into contact with portions of the zipper structure disposed above pad 140.

As shown in FIG. 2, foam pad 140 is stitched to fabric 102 in order to secure the foam pad in place. It is readily apparent from FIGS. 2 and 4-6, that the foam pad 140 is a unitary and continuous barrier. A pair of outer rows of stitches 180, 182 are formed parallel to and along each side of the zipper tracks 121, 123. Additionally, a pair of inner rows of stitches 160, 162 may be formed parallel to and along each side of zipper tracks 121, 123. A fifth row of stitches 164 runs perpendicular to zipper tracks 121, 123 and connects all four stitch rows 160, 162, 180, 182. Row 164 traverses end location 125 of zipper tracks 121, 123. Also, two rows of stitches 181, 183 run perpendicular to zipper tracks 121, 123 and connect stitch rows 160, 180, and connect rows 162, 182, respectively. Stitch rows 181, 183 are co-linear and stop short of the zipper tracks, as shown.

Stitching is applied so as to securely attach foam pad 140 to encasement fabric 102. The stitches are sufficiently close together so as to prevent a bed bug from passing through any of the stitched rows. For example, referring to FIG. 2, a bed bug may not pass through stitched row 164, between pad 140 and fabric 102 to get to opening 110.

Stitching patterns of a rectangular shape are thus formed on each side of the zipper track, attaching foam pad 140 to encasement fabric 102. As will suggest itself, other stitching patterns may be used. For example a stitching pattern of an "X" shape, or diagonal lines may also be employed. In addition, stitching may encompass end location 125, as shown at 185. As shown in FIGS. 4 and 5, the fabric 102 may be folded at end location 125 to provide further support, or the like.

Referring to FIG. 3, zipper closure 111 is shown separate from encasement 100. Zipper head 120 includes a lower flat planar member 131 which lies below zipper tracks 121, 123. Member 131 serves as one guiding surface to guide the tracks together. The tracks are secured to respective pieces of fabric or extensions 137, 139 which provide a means for securing the tracks to the fabric 102. Fabric extensions 137, 139 are shown in FIG. 2.

Referring now to FIG. 4, flat planar member 131 of the zipper head is shown below the two zipper tracks 121, 123. The fabric extensions 137, 139 of the tracks are sewn to the casement fabric 102 at respective locations 145, 147, and then fabric 102 is folded back over itself leaving two end portions 149 of fabric 102.

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As seen in FIG. 4, a space 151 is formed below the zipper tracks 121, 123, and above foam pad 140. This space 151 provides a channel along which the bottom portion 131 of zipper head 120 moves. As seen in FIG. 2, the stitching segments 160, 162 form the outer extent of the sides of channel 151. The top of channel 151 is bound by zipper tracks 121, 123 and the bottom of channel 151 is bound by foam pad 140. Even if a bed bug were to crawl along the entire length of channel 151 toward opening 110, the bug will be confronted with a barrier posed by lower portion 131 of the zipper head. To thwart the bug from crawling beneath portion 131 of the zipper head, the top surface 143 of the foam pad is forced upwardly into contact with the bottom surface 132 (FIG. 3) of portion 131 by the compression of foam pad 140 caused by the mattress snugly fitting within the encasement fabric 102.

Foam pad 140 is of a length such that when zipper 120 is at a location at or near end point 125, channel 151 is relatively long making it difficult for a bed bug to crawl through channel 151 to reach the zipper end 125.

In order to prevent bed bugs from escaping through the channel 151, it is preferred that the maximum height of the channel be small relative to the height of a crawling bed bug and yet provide a sufficient space to receive the lower portion 131 of zipper head 120. Accordingly, depending on the material of the foam pad 140 and the fabric cover 102, and the size of the zipper head 120 and zipper tracks 121, 123, the preferred distance between stitching segments 160 and 162, and the zipper tracks will vary. The size of the channel 151 may also vary depending on the size of the bed bugs intended to be prevented from escaping the mattress.

For example, the distance between stitching rows 160, 162, and respective tracks 121, 123 may be  $\frac{1}{16}$  of an inch. The distance between stitching rows 160, 162 may be  $\frac{3}{16}$  of an inch. The distance between stitching rows 164, 181 may be  $2\frac{1}{2}$  inches. The height of lower portion 131 of the zipper may be  $\frac{1}{32}$  of an inch.

Referring to FIG. 6, as zipper head 120 moves along zipper tracks 121, 123 and away from foam pad 140, opening 110 enlarges. As shown in FIG. 1, foam pad 140 is located a distance away from end 105 so as to allow opening 110 to enlarge sufficiently to insert and/or remove mattress 101. As will suggest itself, encasement 100 may be constructed in pieces and sewn together.

Accordingly, bed bugs attempting to escape the mattress encasement are impeded from crawling through zipper opening 110 (FIG. 2) without first crawling through channel 151. When the mattress encasement 100 is properly closed around a mattress, the size of the encasement is such as to fit snugly around the mattress allowing the mattress to abut against foam pad 140. Foam pad 140 will thus be forced against the tracks 121, 123, and lower portion 131 of the zipper head. The zipper head may be pulled along the tracks and against this bias to open the encasement.

While the invention has been described with reference to certain embodiments, it will be understood by those skilled in the art that various changes may be made and equivalents may be substituted without departing from the scope of the invention. In addition, many modifications may be made to adapt a particular situation or material to the teachings of the invention without departing from its scope. Therefore, it is intended that the invention not be limited to the particular embodiment disclosed, but that the invention will include all embodiments falling within the scope of the appended claims.

What is claimed is:

1. A method of preventing bed bugs from escaping a zipper opening formed at the terminal end of a zipper closure disposed in a closeable apparatus, said closeable apparatus com-

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prising (1) an encasement material formed of a bed bug impervious material, (2) an opening from which bed bugs may escape, and (3) a zipper closure, said zipper closure located in said opening and having a zipper head and a pair of zipper tracks mateable together to provide closure to the zipper opening, said zipper opening formed at the terminal end of the zipper closure by an unzipped portion of said zipper tracks, said zipper head having a lower portion disposed beneath said zipper tracks, said method comprising the steps:

- a) attaching a barrier beneath the zipper tracks to block bed bugs from approaching said zipper opening at the terminal end of said zipper closure, said attaching including securing a first portion of the barrier at the terminal end of the zipper closure to block bed bug movement along the longitudinal axis of said zipper tracks, securing a second portion of the barrier along one side of said zipper tracks to block bed bug movement orthogonal to the longitudinal axis of said zipper tracks, and securing a third portion of the barrier along the other side of said zipper tracks to block bed bug movement orthogonal to the longitudinal axis of said zipper tracks;
- b) creating a channel beneath said zipper tracks adjacent the terminal end of the zipper closure, including forming said channel from said barrier to have an entrance (1) spaced a first distance from the terminal end of the zipper closure and (2) disposed beneath the said zipper tracks and of a size for receiving the lower portion of said zipper head, and forming said channel to have a confined space sufficient to permit movement of the lower portion of the zipper head along said channel; and

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c) forming said channel to block movement of bed bugs along said channel and around said lower portion of said zipper head in order to prevent bed bugs escaping through said zipper opening when said lower portion of said zipper head is disposed in said channel a second distance less than said first distance, from the terminal end of the zipper closure.

2. A method according to claim 1 wherein said step of securing the barrier at the terminal end of said tracks includes stitching the barrier to the encasement.

3. A method according to claim 2 wherein said step of stitching includes using thread.

4. A method according to claim 2 wherein said stitching step includes providing two rows of stitching, and wherein the distance between said two rows of stitching is about  $\frac{1}{16}$  of an inch.

5. A method according to claim 1 wherein said step of creating a channel includes sizing said channel depending on the size of said lower portion of said zipper head.

6. A method according to claim 1 wherein said step of creating a channel includes determining a dimension of said lower portion of said zipper head.

7. A method according to claim 6 wherein said step of creating a channel includes sizing said channel in response to said step of determining a dimension of said lower portion of said zipper head.

8. A method according to claim 7 wherein said dimension of said lower portion of said zipper head is around  $\frac{1}{32}$  of an inch.

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